



## MILPITAS PLANNING COMMISSION STAFF REPORT

March 12, 2014

**APPLICATION:** **Planned Development Zoning District Ordinance - Zoning and General Plan Amendment Nos. ZA14-0004 and GP14-0002 - A**  
City-initiated request to consider a general plan text amendment and a zoning text amendment to create a new Planned Development Zoning District and accompanying language for inclusion in the City's Zoning Ordinance.

**RECOMMENDATION:** **Staff recommends that the Planning Commission:**  
Adopt Resolution No. 14-011 recommending the City Council adopts an amendment to the General Plan and Zoning Ordinance for a new Planned Development Zoning District and accompanying language – (Zoning and General Plan Amendment No. ZA14-0004, GP14-0002).

**LOCATION:**  
Address/APN: City-wide

**PEOPLE:**  
Project Applicant: City of Milpitas Planning Division  
Project Planner: Scott Ruhland, Senior Planner

**LAND USE:**  
General Plan Designation: Commercial, Industrial and Mixed Use Designations

**ENVIRONMENTAL:** Categorically exempt from further environmental review pursuant to Section 15061(b)(3) in that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

### **EXECUTIVE SUMMARY**

The Planning Division is proposing a new Planned Development Zoning District for inclusion into the City's Zoning Ordinance. The proposal includes the following:

- 1) A General Plan text amendment to include a policy and acknowledgement of the proposed Planned Development district;
- 2) A Zoning Text Amendment to include provisions for the new Planned Development Zoning District and other related amendments for consistency.

Staff recommends the Planning Commission adopts Resolution No. 14-011 recommending the City Council adopts an amendment to the General Plan and Zoning Ordinance for a new Planned Development Zoning District and accompanying language.

## **BACKGROUND**

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Planned Development Zoning District, or sometimes referred to as a “Planned District” is a common practice of zoning regulation to govern land use and development proposals in a coordinated and consistent approach. The purpose of a Planned District is to encourage and provide a method to achieve desirable development and improvement of land with variations in building siting, design and orientation, mixed land uses, varied housing or building types, and incorporation of public improvements while creating desirable design character and land use compatibility. A Planned District is essentially a custom zoning district for a parcel, or parcels of land, under common ownership based on a specific development proposal.

The City of Milpitas currently has a Planned Unit Development (PUD) Ordinance which is a similar but different approach for regulating specific development proposals. The PUD provisions do not constitute a rezoning of the property but rather issuance of a PUD permit for a development plan in substantial compliance with the property’s zoning district. Slight modifications to development standards such as setbacks and height are common, but the intent is focused on the contextual and spatial relationships between buildings, or as the term suggests, the “units”. This approach offers limited flexibility and assurance that development will occur as planned and approved.

A Planned District approach as a rezoning action would allow greater flexibility in terms of mixed land uses, density or floor area ratio (FAR), and building types based on the location, land use and development potential of the site and surrounding properties. It also provides more assurance for a developer and the City in terms of expected development potential, public benefits, timeframe and outcomes. Development is also vested through the rezoning of the property.

### ***The Application***

The following is a summary of the request:

- *General Plan Amendment:* Amend the General Plan Land Use element to modify Table 2-3 to include the Planned Development Zoning District and to include new General Plan Guiding Principle 2.a.G-12 for Planned Development Zoning District.
- *Zoning Amendment:* Add a Section 8 under the Zoning Ordinance to include a new Planned Development Zoning District and add specific findings to approve a Planned Development Zoning District along with other related amendments for consistency.

## **PROJECT DESCRIPTION**

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### ***Overview***

Staff is proposing a new Planned Development Zoning District for inclusion in the City’s Zoning Ordinance. Staff believes a Planned Development Zoning District will be a valuable tool for zoning implementation and development regulation while allowing greater flexibility for property owner and developers with assurances to the City on timing, outcomes and benefits. Planned Development zoning can prove valuable to allow larger, more complex development projects that do not meet the strict regulation of standard zoning districts while gaining public improvements or benefits. Given the rapidly changing market and economic conditions of

Silicon Valley, and the pace of development processing, this option can assist in achieving a well-designed built environment while providing the owner/developer assurance that their project is vested through zoning.

Staff is proposing certain minimum standards and requirements for Planned Development Zoning Districts as follows:

1. Only mixed-use, commercial, and industrial properties may apply for a General Plan and Zoning amendment for a Planned Development Zoning District.
2. Only properties of a minimum 20 acres may apply;
3. The base zoning district will apply until the approved Planned Development Zoning District is effectuated by a final map, building permit, or commencement of use;
4. A significant public benefit is required.
5. Located outside of Midtown and Transit Specific Plan areas.

Please see Attachment A for the proposed Ordinance language including the Planned Development Zoning District and accompanying amendments for consistency.

### ***Location and Context***

The new Planned Development Zoning District will apply City-wide but only be applicable to parcels of land, or combination of parcels, located in commercial or industrial land use designations, outside of the Midtown and Transit Specific Plan areas, and twenty-five acres or larger in size.

## **PROJECT ANALYSIS**

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### ***General Plan Conformance***

The project is consistent with the following General Plan Guiding Principles:

- **2.a-G-1:** Maintain a land use program that balances Milpitas' regional and local roles by providing for a highly amenable community environment and a thriving regional industrial center.
- **2.a-G-7:** When considering development proposals, seek “community benefit”, such as upgrading infrastructure facilities, constructing new infrastructure facilities, and funding contributions to programs.
- **2.a-G-8:** The City should consider a long term approach to managing its income/job generating lands and the impacts of development on public services.
- **2.a-G-9:** The city should make land use decisions that improve the City’s fiscal condition. Manage the City’s future growth in an orderly, planned manner that is consistent with the City’s ability to provide efficient and economical public services, to maximize the use of existing and proposed public facilities, and to achieve equitable sharing of the cost of such services and facilities.

The proposed Planned District is consistent with, and achieves many goals of the General Plan. The flexibility afforded by Planned Development Zoning District can assist in creating a highly amenable urban environment that provides a range of land uses and improved infrastructure. Project amenities, open space and exceptional architectural design are commonplace with Planned District approval. Planned Development zoning can also help the City achieve improved community benefits and additional improvements not otherwise required by development. Depending on a variety of circumstances, these benefits can be provided and maintained by a private entity and relieve the City of the fiscal responsibility.

### ***Zoning Conformance***

The proposed Planned Development zoning is internally consistent with the Zoning Ordinance and with other provisions of the Ordinance. Once provisions for a Planned Development Zoning District is effective, the process for approving a project is similar to a rezoning action. However, more detail on the development proposal is provided and the approval is based on a specific project with minor deviations, if any, allowed after the approval. This approach provides a greater level of certainty for the property owner, developer and City to ensure a specific project since it is approved under the auspices of a legislative rezoning action which in effect becomes law. Findings are required for project approval and are typically based on conformance with the General Plan, not being detrimental to public health and safety, and that modifications to development standards are warranted by exceptional site and architectural design, project amenities and public improvements and/or benefits. See proposed ordinance, Attachment A, Exhibit 1.

## **FINDINGS FOR APPROVAL**

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A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

### ***General Plan Amendment (Section XI-10-57.02(G)(1))***

- 1. The proposed amendment is internally consistent with those portions of the General Plan not being amended.*

The proposed amendment is consistent with this finding because a new General Plan guiding principle is proposed to add policy language to the General Plan for implementing the Planned Development Zoning District. The proposed amendment has been analyzed against the General Plan and is internally consistent with other portions not being amended.

### ***Zoning Amendment (Section XI-10-57.02(G)(3))***

- 2. The proposed amendment is consistent with the General Plan.*

The proposed amendment is consistent with this finding because of the reasons stated above in the General Plan analysis section of this report. Further, the proposed General Plan Amendment for Planned Development Zoning District provides a policy basis for future implementation and

identifies which zoning district are appropriate for Planned Development Zoning Districts. Based on these reasons, the proposed amendment is consistent with the General Plan.

*3. The proposed amendment will not adversely affect the public health, safety and welfare.*

The proposed amendment is consistent with this finding because the nature of Planned Development Zoning District is to allow flexibility in zoning, land use and development standards. Future implementation of the ordinance is subject to consistency with the general Plan, as well as all other codes, policies and regulations of the City of Milpitas which address the safety and welfare of the community. For these reasons, the proposed amendment will not adversely affect the community, nor the public health, safety or welfare of the City of Milpitas.

## **ENVIRONMENTAL REVIEW**

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The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is categorically exempt from further CEQA review under Section 15061(b)(3) of the CEQA Guidelines in that the project has no potential to cause a significant effect on the environment. Staff has determined that creating the policy framework and procedures for a Planned Development zoning district has no potential to cause a significant effect on the environment. These are considered policy amendments and have no direct connection or effect on the environment. Future applications for development under the Planned Development district will be subject to CEQA review.

## **PUBLIC COMMENT/OUTREACH**

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Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on February 28, 2014 (Two Fridays before the meeting). A public notice was also provided on the City's Website, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), and posted at City Hall.

## **CITY COUNCIL REVIEW**

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This project requires review by the City Council and is tentatively scheduled on the April 1, 2014 Council agenda.

## **CONCLUSION**

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In summary, Staff is recommending the Planning Commission adopt Resolution No. 14-011 recommending the City Council adopt the proposed General Plan and Zoning amendments. Staff believes the amendments will create a valuable tool for zoning implementation and development regulation while allowing greater flexibility for property owner and developers, with assurances to the City on timing, outcomes and benefits. Planned Development zoning can prove valuable to allow larger, more complex development projects that do not meet the strict regulation of standard zoning districts while gaining public improvements or benefits.

## **RECOMMENDATION**

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STAFF RECOMMENDS THAT the Planning Commission:

1. Open and Close Public Hearing; and

2. Adopt Resolution 14-011 recommending City Council adopts General Plan Amendment (No. GP14-0002) amending the General Plan for consistency for a new Planned Development Zoning District; and an amendment to the Zoning Ordinance for a new Planned Development Zoning District and accompanying language – (Zoning Amendment No. ZA14-0004) based on the findings.

## **ATTACHMENTS**

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A: Resolution No. 14-011